

**DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS AND ETHICS**

**NOTICE OF PROPOSED RULEMAKING**

The District of Columbia Board of Elections and Ethics pursuant to the authority set forth in D.C. Code § 1-1001.05(a)(14) hereby gives notice of proposed rulemaking action to adopt the following amendments to 3 DCMR Chapter 8, “Tabulation and Certification of Election Results”; and 3 DCMR Chapter 9, “Filling Vacancies.”

The proposed amendments: (1) clarify the procedures for pre-election testing of the automatic vote tabulating system; (2) establish the procedures for the post-election vote canvass; (3) clarify ballot inspection procedures performed by the ballot inspection team; (4) clarify the procedures for determining the validity of a write-in vote; (5) reflect changes to the names of federal and District of Columbia agencies and agency guidelines; (6) correct typographical errors made as a result of the District-wide electronic regulation updating process; and (7) establish standards and procedures for conducting post-election manual audits of paper ballots counted by precinct-level tabulation machines.

The Board gives notice of its intent to take final rulemaking action to adopt these amendments in not less than 30 days from the date of publication of this notice in the D.C. Register.

*Section 800 of Chapter 8 of 3 DCMR, “Pre-Election Testing of the Automatic Vote Tabulating System,” shall be amended to read as follows:*

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| “800  | PRE-ELECTION TESTING OF THE AUTOMATIC VOTE<br>TABULATING SYSTEM  |
| 800.1 | Complete public Logic and Accuracy (“L&A”) testing of the District’s automatic tabulation system shall be conducted before the use of the system in any election.                                |
| 800.2 | The L&A test shall verify that the machines are correctly configured for the specifics of the election.  |
| 800.3 | The L&A test shall be conducted by processing a pre-audited number of votes so as to record a pre-determined number of valid votes, “over” votes and blank votes for each candidate or question. |
| 800.4 | Equipment shall not be approved unless it produces the exact count of all votes, rejects all improper votes, and meets all other test criteria.  |
| 800.5 | After the official L&A test has been successfully completed, all test votes, test results, and the computer programs tested shall be   |

kept in sealed containers and shall not be removed from containers except in the presence of two or more election officials.

- 800.6 Notice of the L&A test shall be given to candidates, proponents and opponents of measures, party officials, the news media, and to any other public representatives the Board deems appropriate, at least seven (7) days before the test.”

*Section 801 of Chapter 8 of 3 DCMR, “Public Testing of Programs,” shall be amended to read as follows:*

“801 CANVASS OF VOTES

- 801.1 The canvass of votes shall be started immediately on election day after receipt of the ballot boxes and vote recording devices from the polling places and shall be conducted under the direct supervision of the Board.
- 801.2 Special ballots, together with any damaged ballots received from the polling places shall be tabulated separately at a time designated by the Board.
- 801.3 The Board shall appoint the required special teams to perform certain steps in the canvass.
- 801.4 The responsibilities of each special team and specific instructions to carry out those responsibilities shall be detailed in writing.
- 801.5 Only those authorized by the Board shall be admitted to the Counting Center while the canvass is in progress.”

*Section 804 of Chapter 8 of 3 DCMR, “Ballot Inspection,” shall be amended to read as follows:*

“804 BALLOT INSPECTION

- 804.1 A ballot inspection team shall perform the following functions for the ballots of each precinct:
- a) Open precinct ballot containers and remove all ballots;
  - b) Assemble all ballots for a single precinct;
- and

- c) Visually review all ballots for tabulating acceptability.
- 804.2 Any ballots which are to be rejected (for such reasons as defacement or revealed identity of voter) shall be set aside in a clearly marked container or envelope.
- 804.3 Any valid ballot which because its physical condition is unreadable by automatic tabulation shall be deemed a "damaged ballot."
- 804.4 All ballots to be counted shall be inspected for automatic tabulating acceptability. Any ballot determined to be unacceptable for machine tabulation shall be set aside as damaged and tabulated in accordance with the provisions of § 808.
- 804.5 All rejections shall be made by the Executive Director, or his or her designee.
- 804.6 Review and inspection of absentee ballots shall be made separately from the review and inspection of ballots from polling places. This review and inspection shall begin at the time designated by the Board and shall be the same as for ballots cast in polling places, insofar as those procedures are appropriate.
- 804.7 Absentee and special ballots shall be tabulated separately from polling place ballots.
- 804.8 All damaged ballots shall be tabulated at the date and time set for the counting of absentee and special ballots."

*Section 805 of Chapter 8 of 3 DCMR, "Validity of Ballots and Votes," shall be amended to read as follows:*

**"805            VALIDITY OF BALLOTS AND VOTES**

- 805.1 The following procedures shall be used to determine whether or not a ballot is valid:
  - a) If any official who is counting ballot is uncertain whether a ballot is partially or totally invalid, he or she shall refer the

ballot to a representative designated by the Board to decide these questions; or

- b) Any watcher who is uncertain whether a ballot is partially or totally invalid may refer the ballot to a representative designated by the Board to decide these questions.

805.2 If a ballot marked "Challenged" or "Special" is placed in a ballot box and received at the counting place other than in a Special Ballot Envelope, it shall be deemed invalid.

805.3 Members of counting teams shall not open Special Ballot Envelopes; but shall deliver them unopened to the Counting Team Captain, who shall deliver them unopened to a representative designated by the Board.

805.4 A write-in vote shall not be adjudged valid, and shall not be tallied and recorded, unless the voter has written in the name of the person for whom the write-in vote is cast on a blank line provided for write-in voting and has not marked the voting position on an equal number of votes allowed for that office."

*Section 811 of Chapter 8 of 3 DCMR shall be amended to read as follows:*

"811 CONSOLIDATED BALLOT REPORT

811.1 Following tabulation of all ballots, a consolidated report shall be produced showing the total vote cast for all offices.

811.2 Unless otherwise mandated by the Board, the consolidated ballot report shall be made by precinct."

*Section 817 of Chapter 8 of 3 DCMR, "Voting System Standards," shall be amended to read as follows:*

"817 VOTING SYSTEM STANDARDS

817.1 All voting systems offered to the Board and used in the District of Columbia by the Board shall meet or exceed the minimum requirements of the Election Assistance

Commission Voluntary Voting System Guidelines or other federal certification. Where there is a conflict between those standards and these regulations, such voting systems must test to the higher standard.”

*Chapter 8, “Tabulation and Certification of Election Results,” shall be amended to include the following new Section to read as follows:*

- “818 POST-ELECTION MANUAL AUDIT OF PAPER BALLOT MACHINES
- 818.1 After each Primary, General, and Special election in which a precinct-level vote-tabulation machine is used, the Board shall conduct a public manual (hand-count) audit of the paper ballots tabulated by at least (5) per cent of the precincts during the election.
- 818.2 The manual audit shall entail counting the paper ballots cast on the machines selected for the audit and comparing the results of this count with the results shown by the results tape produced by the machine used to tabulate those paper ballots during the election.
- 818.3 The Board shall take appropriate measures to ensure that spoiled or defective ballots are not tallied as valid ballots in the manual audit process.
- 818.4 The precincts audited shall be selected on an entirely random basis such that each precinct in the election shall have an equal chance of being selected for the manual audit, except that:
- a) No less than five (5) per cent of the precincts used in the District shall be selected, and;
  - b) No less than one precinct from each ward shall be selected.
  - c) The Board may select additional precincts in its discretion.
- 818.5 The random precinct selection event shall be announced no later than three (3) days after the election, but more than three (3) days in advance of the event and conducted in public view.
- 818.6 The manual audit shall be:

- a) Announced no later than three (3) days after the election, but more than three (3) days in advance of the event, and;
- b) Conducted in public view such that members of the public are able to verify the tally, but are unable either to touch ballots and other official materials or to interfere in any way with the manual audit process.

818.7 The Board shall begin the manual audit immediately after the random precinct selection event.

818.8 The contests subject to the manual audit, which shall be publicly selected at random by the Board, shall be, in all elections where there is at least one District-wide contest on the ballot, whether it involves an office or a ballot measure, at least one District-wide contest. If there is no District-wide contest in an election, the Board shall provide a process for selecting ward ballot items to adequately verify machine results.

818.9 The Board shall also conduct a manual audit of:

- a) The paper ballots cast in each contest that would be subject to an automatic recount pursuant to Section 815 of this chapter, and;
- b) The paper ballots cast in precincts where the difference between the number of voters (as indicated by the results tape) and the number of ballots cast (as indicated by the precinct ballot accounting form) is greater than the margin of victory in a particular contest.

818.10 The Board shall also conduct a manual audit of:

- a) Not be assigned to tally the results from a precinct in which that individual served as a poll worker on Election Day, and;
- b) Not at any time before or during the manual audit be informed of the corresponding machine tally results.

- 818.11 Individuals performing the manual audit shall be assembled into teams of at least four individuals such that there will be one person to call the ballot result, at least two persons to tally the ballot result, and at least one person to witness the process.
- 818.12 Each manual audit team shall be provided with a set of paper ballots associated with a machine that has been selected for the manual audit and advised as to which contest they are responsible for auditing.
- 818.13 The talliers shall announce the end of each twenty (20)-vote increment, at which point the team shall check for errors in the tally. If a tallying error is found, the tallying process shall be rolled back to the last point of agreement.
- 818.14 If the initial manual audit reveals a discrepancy between the machine result and the manual audit tally result which yields an error rate greater than one and one-half (1 ½) per cent, and such discrepancy is not attributed to marking errors, a recount shall be conducted by the same team.
- 818.15 If the second manual audit confirms the discrepancy described in subsection 818.14, the ballots cast using the machine at the precinct either one higher or lower in number than the one whose machine was the subject of the initial manual audit shall be subjected to a manual audit.
- 818.16 If the additional precinct manual audit confirms the discrepancy described in subsection 818.14, the ballots cast on all voting machines in the ward at issue shall be subjected to a manual audit.
- 818.17 The results derived from the manual audits shall be considered the true and correct results of the election contests at issue.
- 818.18 All machines found to have an error rate greater than that referenced in subsection 818.14 shall be examined and repaired before they may be used in future elections.
- 818.19 All software errors detected as a result of the manual audit shall be investigated and corrected before any machine that used such software in that election may be used in future elections.
- 818.20 The Board shall include a report, which shall be made public, on the results of the manual audit in the certification of the official election results. Such report shall:

- a) Identify any discrepancies between the machine count and the manual tally, and;
- b) A description of how each of these discrepancies was resolved.”

*Section 900 of Chapter 9 of 3 DCMR, “Filing Vacancies,” shall be amended to read as follows:*

“900 FILLING VACANCIES

900.1 This chapter governs the procedures of the District of Columbia Board of Elections and Ethics in the event a vacancy occurs in any of the following offices prior to the expiration of the term of office:

- a) The Mayor of the District of Columbia;
- b) The Chairman of the Council of the District of Columbia;
- c) At-large and Ward members of the Council of the District of Columbia;
- d) At-large and Ward members of the State Board of Education; and
- e) Delegate to the House of Representatives.

900.2 A vacancy shall exist in the offices enumerated in § 900.1 when any of the following occurs during the public official’s term of office:

- a) Resignation;
- b) Death; or
- c) Declaration of vacancy by a court.

900.3 A vacancy shall also exist in the offices of Mayor, Member of the Council of the District of Columbia, or Member of the District of Columbia Board of Education whenever a recall election is conducted and, as a result of that recall election, an elected officer is removed from office.”

*Section 904 of Chapter 9 of 3 DCMR, "Vacancy in the Office of Elected Member of the Board of Education," shall be amended to read as follows:*

- "904                    VACANCY IN THE OFFICE OF ELECTED MEMBER  
OF THE STATE BOARD OF EDUCATION
- 904.1                When a member of the State Board of Education resigns his  
or her office prior to expiration of the term, the resignation  
shall be in writing and in duplicate.
- 904.2                The resigning member of the State Board of  
Education shall forward one duplicate original of the  
resignation to the Mayor and one duplicate original to the  
Chairperson of the D.C. Board of Elections and Ethics.
- 904.3                Within five (5) working days of receipt of the duplicate  
resignation, the Board shall certify the seat vacant, effective  
as provided by the resignation, and issue the appropriate  
notification as provided by § 906.
- 904.4                When a member of the State Board of Education dies while  
still serving his or her term of office, the Board shall, within  
five (5) working days of notice of the death of the member  
of the State Board of Education, certify the seat vacant and  
issue the appropriate notification as provided by § 906.
- 904.5                When a vacancy in the office of Member of the  
State Board of Education is declared by court order, the  
Board shall, as soon as practicable after the court  
declaration, notify the President of the State Board of  
Education of the vacancy by registered mail.
- 904.6                When a vacancy in the office of Member of the  
State Board of Education occurs as a result of a recall  
election, the Board shall, as soon as practicable after  
certification of the election results, do the following:
- a)        Certify the seat vacant;
  - b)        Notify the State Board of Education; and
  - c)        Issue the appropriate notification as  
            provided by § 906.
- 904.7                When the office of the President becomes vacant,  
the State Board of Education shall select one of the members

of the Board to serve as the President pursuant to the by-laws of the State Board of Education.”

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments no later than thirty (30) days after the publication of this notice in the D.C. Register. Comments should be sent to Kenneth J. McGhie, General Counsel, D.C. Board of Elections and Ethics, 441 4<sup>th</sup> Street, NW, Suite 270N, Washington, DC 20001. Copies of the proposed rules may be obtained at cost from the Board at the same address between the hours of 9:00 a.m. and 4:45 p.m.

DISTRICT OF COLUMBIA  
DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Transportation, pursuant to the authority of sections 5(3)(D) and 6(b) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002, D.C. Law 14-137; D.C. Official Code §§ 50-921.04(3)(D) and 921.05(b) (2001 Ed.) (transferring the parking management function previously delegated to the Department of Public Works under section III (H) of Reorganization Plan No. 4 of 1983), and the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved February 16, 1942 (56 Stat. 91, ch. 76, sec. 3; D.C. Official Code § 50-2603(5)), hereby gives notice of the intent to adopt the following rulemaking to amend Chapter 24 of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic).

The proposed rulemaking would allow the payment of parking meter fees through a pay by phone system, modify the premium demand parking meter rate zones, and clarify the length of time a vehicle may park in a residential permit parking zone without the appropriate residential permit parking zone sticker. Final rulemaking action shall not be taken in less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

**Chapter 24 of Title 18, DCMR, is amended as follows:**

**Section 2404, PARKING METERS AND PARKING METER ZONES, is amended as follows:**

**1) Subsection 2404.6 is amended to read as follows:**

2404.6           Immediately after parking a motor vehicle, the operator shall pay for the amount of parking time desired and, if a receipt is issued, place the receipt on the passenger side of the dashboard of the vehicle so that it is clearly visible through the windshield of the vehicle. The space may then be used by the vehicle during the parking limit indicated on the single-space or multi-space parking meter for that space or on the receipt issued, as is applicable, or for the amount of time that is confirmed through a pay-by-phone system.

**2) Subsection 2404.8 is amended to read as follows:**

2404.8           Except as provided in § 2404.9, a vehicle shall be considered illegally parked if:

- (a)   The amount of time paid for at a single-space or multi-space parking meter has lapsed;
- (b)   The expiration time indicated on the parking meter receipt displayed on the vehicle has lapsed;

- (c) The vehicle does not display a receipt in the manner required by § 2404.6; or;
- (d) The amount of time paid for using the pay-by-phone system has lapsed.

**3) Subsection 2404.22 is amended to read as follows:**

2404.22 Except as provided in § 2424, the "Premium Demand Parking Meter Rate Zone" shall include both sides of any street segments, all street segments, and off-street parking facilities under District of Columbia jurisdiction which are contained on the following streets and within the areas defined by the boundaries these streets establish:

(a) Ward 1

- (1) 18th Street, N.W. between U Street, N.W. and Lanier Place, N.W.
- (2) Columbia Road, N.W. between 16th Street N.W. and 19th Street N.W.
- (3) Connecticut Avenue, N.W. between Piney Branch Road, N.W. and Florida Avenue, N.W.
- (4) Florida Avenue, N.W. between Connecticut Avenue, N.W. and 7th Street, N.W.
- (5) T Street, N.W. between Connecticut Avenue, N.W. and Florida Avenue, N.W.
- (6) Kalorama Road, N.W. between 18th Street, N.W. and 16th Street, N.W.
- (7) Champlain Street, N.W. between Columbia Road, N.W. and Kalorama Road, N.W.
- (8) Euclid Street, N.W. between Champlain Street, N.W. and Ontario Road, N.W.
- (9) Ontario Road between Columbia Road, N.W. and Euclid Street, N.W.
- (10) 17th Street, N.W. between Columbia Road, N.W. and Kalorama Road, N.W.
- (11) W Street, N.W. between New Hampshire Avenue, N.W. and 14th Street, N.W.
- (12) V Street, N.W. between 15th Street, N.W. and 14th Street, N.W.
- (13) 14th Street, N.W. between S Street, N.W. and W Street, N.W.
- (14) 8th Street, N.W. between V Street, N.W. and Barry Place, N.W.
- (15) V Street, N.W. between 8th Street, N.W. and Georgia Avenue, N.W.
- (16) Georgia Avenue, N.W. between Florida Avenue, N.W. and Barry Place, N.W. and between Euclid Street, N.W. and Girard Street, N.W.
- (17) Euclid Street, N.W. between 9th Street, N.W. and 7th Street, N.W.

- (18) Fairmont Street, N.W. between Sherman Avenue, N.W. and 7th Street, N.W.
  - (19) Girard Street, N.W. between 7th Street, N.W. and 6th Street, N.W.
  - (20) 6th Street, N.W. between Girard Street, N.W. and W Street, N.W.
  - (21) College Street, N.W. between 6th Street, N.W. and 4th Street, N.W.
  - (22) 4th Street, N.W. between College Street, N.W. and Bryant Street, N.W.
  - (23) W Street, N.W. between 7th Street, N.W. and 2nd Street, N.W.
  - (24) 5th Street, N.W. between Oakdale Place, N.W. and U Street, N.W.
  - (25) U Street, N.W. between Connecticut Avenue, N.W. and Wiltberger Street, N.W.
  - (26) Georgia Avenue, N.W. between Girard Street, N.W. and Florida Avenue, N.W.
  - (27) Girard Street, N.W. between Georgia Avenue, N.W. and 6th Street, N.W.
  - (28) Fairmont Street, N.W. between Sherman Avenue, N.W. and Georgia Avenue, N.W.
  - (29) Howard Place, N.W. between Georgia Avenue and 4th Street, N.W.
  - (30) College Street, N.W. between 6th Street, N.W. and 4th Street, N.W.
  - (31) Barry Place, N.W. between 8th Street, N.W. and Georgia Avenue, N.W.
  - (32) W Street, N.W. between Georgia Avenue, N.W. and 2nd Street, N.W.
  - (33) 8th Street, N.W. between Barry Place, N.W. and V Street, N.W.
  - (34) 5th Street, N.W. between U Street, N.W. and V Street, N.W.
  - (35) 4th Street, N.W. between Gresham Place, N.W. and W Street, N.W.
  - (36) Euclid Street, N.W. between 9th Street, N.W. and Georgia Avenue, N.W.
  - (37) Mount Pleasant Street, N.W. between Lamont Street, N.W. and Argonne Place, N.W.
  - (38) Lamont Street, N.W. between 17th Street, N.W. and 16th Street, N.W.
- (b) Ward 2
- (1) All streets within the Ward 2 election area boundary as described in DC Code § 1-1041.03.
- (c) Ward 3
- (1) Wisconsin Avenue, N.W. between Western Avenue, N.W. and Upton Street, N.W.
  - (2) Connecticut Avenue, N.W. between Albemarle Street, N.W. and Calvert Street, N.W.
  - (3) Massachusetts Avenue, N.W. between University Avenue, N.W. and Macomb Street, N.W.

- (4) Rockwood Parkway, N.W. between Glenbrook Road, N.W. and Massachusetts Avenue, N.W.
  - (5) New Mexico Avenue, N.W. between Sutton Place, N.W. and Nebraska Avenue, N.W.
  - (6) Foxhall Road, N.W. between Reservoir Road, N.W. and Q Street, N.W.
  - (7) Reservoir Road, N.W. between 44th Street, N.W. and U Street, N.W.
  - (8) 35th Street, N.W. between Calvert Street, N.W. and U Street, N.W.
- (d) Ward 4
- (1) Georgia Avenue, N.W. between Randolph Street, N.W. and Rock Creek Church Road, N.W.
- (e) Ward 5
- (1) John McCormack Road, N.E. between Taylor Street, N.E. and Michigan Avenue, N.E.
  - (2) 1st Street, N.W. between Bryant Street, N.W. and Michigan Avenue, N.W.
  - (3) Washington Hospital Center Road, N.W. between Michigan Avenue, N.W. and Irving Street, N.W.
- (f) Ward 6
- (1) North Capitol Street, N.W. at Louisiana Avenue, N.W. north to New York Avenue, N.W.
  - (2) Southwest on New York Avenue, N.W. to Mt. Vernon Place, N.W.
  - (3) West on Mt. Vernon Place, N.W. to 9th Street, N.W.
  - (4) South on 9th Street, N.W. to Pennsylvania Avenue, N.W.
  - (5) Southeast on Pennsylvania Avenue, N.W. to 1st Street, N.W.
  - (6) North on 1st Street, N.W. to Louisiana Avenue, N.W.
  - (7) Northwest on Louisiana Avenue, N.W. to North Capitol Street, N.W.
  - (8) Water Street, S.W.
  - (9) Maine Street, S.W. between Raoul Wallenberg Place, S.W. and 6th Street, S.W.
  - (10) 6th Street between Pennsylvania Avenue, S.E. and Brentwood Parkway, N.E.
  - (11) 6th Street, N.E. between Brentwood Parkway, N.E. and New York Avenue, N.E.
  - (12) 2nd Street between Pennsylvania Avenue, S.E. and Parker Street, N.E.
  - (13) 3rd Street between Pennsylvania Avenue, S.E. and Parker Street, N.E.
  - (14) C Street, N.E. between 2nd Street, N.E. and 4th Street, N.E.
  - (15) C Street, N.E. between 4th Street, N.E. and 6th Street, N.E.

- (16) D Street, N.E. between 2nd Street, N.E. and 6th Street, N.E.
- (17) E Street, N.E. between 2nd Street, N.E. and 6th Street, N.E.
- (18) F Street, N.E. between 2nd Street, N.E. and 6th Street, N.E.
- (19) G Street, N.E. between 2nd Street, N.E. and 6th Street, N.E.
- (20) H Street, N.E. between 2nd Street, N.E. and 6th Street, N.E.
- (21) I Street, N.E. between 2nd Street, N.E. and 6th Street, N.E.
- (22) New Jersey Avenue, N.W. between I Street, N.W. and D Street, N.W.
- (23) The south side of Seward Square, S.E. between 4th Street, S.E. and 6th Street, S.E.

**4) Two new subsections 2404.25 and 2404.26 are added to read as follows:**

- 2404.25           Where indicated by sign on the block or at a meter, an operator may pay for parking using a pay-by-phone system.
- 2404.26           An operator using the pay-by phone system shall follow the following procedures:
- (a)   The operator shall call the phone number indicated on the meter or sign immediately after parking the vehicle at the space; and
  - (b)   The operator shall not leave the parking meter until the operator receives confirmation that payment for parking has been received.

**Section 2411, RESIDENTIAL PERMIT PARKING, subsection 2411.1, is amended by adding a new paragraph (d) to read as follows:**

- (d)   If, after two hours, a vehicle has not moved from the same zone, then the provisions of section 2411.1(a) shall be applied again.

All persons interested in commenting on the subject matter in this proposed rulemaking may file comments in writing, not later than thirty (30) days after the publication of this notice in the D.C. Register, with Karina Ricks, Associate Director, District of Columbia Department of Transportation, 2000 14<sup>th</sup> Street, N.W., 7<sup>th</sup> Floor, Washington, D.C. 20009. You may also send comments electronically to [publicspace.committee@dc.gov](mailto:publicspace.committee@dc.gov). Copies of this proposed rulemaking are available, at cost, by writing to the above address, and are also available electronically, at no cost, on the District Department of Transportation's website at [www.ddot.dc.gov](http://www.ddot.dc.gov).